

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DERREL L. THOMAS,

Plaintiff,

v.

Case No. 8:20-cv-1730-T-35SPF

B. CROFT and HERNANDO COUNTY
SHERIFF'S OFFICE,

Defendants.

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ORDER

This matter comes before the Court upon Plaintiff's Motion for Entry of Default by the Clerk (Doc. 9). Plaintiff asserts that he hand delivered a notice of lawsuit and request to waive service of summons to Defendants on August 13, 2020, and that Defendants failed to timely respond (Doc. 9 at 1). Plaintiff now seeks the entry of Clerk's default pursuant to Federal Rule of Civil Procedure 55(a).

Because Defendants did not waive service and have not been served with the summons and complaint,¹ the time for Defendants to plead or otherwise defend has not run, and the prerequisites for the entry of Clerk's default have not been met. *See* Fed. R. Civ. P. 55(a). Here, the Court has taken under consideration Plaintiff's motion to proceed *in forma pauperis* (*see* Docs. 2, 6). If the Court grants Plaintiff's motion to proceed *in forma pauperis*, Plaintiff will be directed by the Court to complete and return the proper forms for service of the summonses on Defendants by the United States Marshal. If the Court denies Plaintiff's

¹ A review of the record reveals that the Clerk has not issued summonses for Defendants.

motion to proceed *in forma pauperis*, Plaintiff must pay the Court's filing fee, serve the summons and complaint on each Defendant, and file proof of service, generally by affidavit of the server, as to each Defendant. *See* Fed. R. Civ. P. 4(l)(1). Only upon proper service of the summons and complaint on Defendants and failure to timely plead or otherwise defend would entry of Clerk's default be warranted.

Accordingly, upon due consideration, it is hereby **ORDERED**:

Plaintiff's Motion for Entry of Default by the Clerk (Doc. 9) is **DENIED**.

ORDERED in Tampa, Florida, this 24th day of September 2020.



SEAN P. FLYNN
UNITED STATES MAGISTRATE JUDGE